

EXHIBIT 36

**Law Offices of K.C. OKOLI, P.C.
330 Seventh Avenue, 15th Floor, New York, N.Y. 10001**

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 YEMISI AKINYEMI,

5 Plaintiff,

6 -against-

7 MICHAEL CHERTOFF, SECRETARY
8 DEPARTMENT OF HOMELAND SECURITY,

9 Defendant.
10 ----- -x

11 DEPOSITION of YEMISI AKINYEMI, taken by
12 Defendant at the office of the U.S. Attorney, 86
13 Chambers Street, 3rd Floor, New York, New York, on
14 Wednesday, September 12, 2007, commencing at 11:55
15 o'clock a.m., before Debra DiBenedetto, a Shorthand
16 (Stenotype) Reporter and Notary Public within and for
17 the State of New York.
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A P P E A R A N C E S:

LAW OFFICES OF K. C. OKOLI, P.C.
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BY: KENECHUKWU CHUDI OKOLI, Esq.,
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U.S. CUSTOMS AND BORDER PATROL
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BY: CYNTHIA J. PREE, Esq., of Counsel

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IT IS HEREBY STIPULATED AND
AGREED that the filing and sealing of
the within deposition be, and the
same are hereby waived;

IT IS FURTHER STIPULATED AND
AGREED that all objections, except as
to the form of the question, be and
the same are hereby reserved to the
time of the trial;

IT IS FURTHER STIPULATED AND
AGREED that the within deposition may
be sworn to before any Notary Public
with the same force and effect as if
sworn to before a Judge of this
Court;

IT IS FURTHER STIPULATED that
the transcript is to be certified by
the reporter.

Akinyemi

Y E M I S I A K I N Y E M I, called as a
witness, having been first duly sworn by
Debra DiBenedetto, a Notary Public within
and for the State of New York, was examined
and testified as follows:

DIRECT EXAMINATION

BY MR. CLOPPER:

Q Ms. Akinyemi, my name is John
Clopper, I'm an assistant United States attorney
for the Southern District of New York and I'm
going to be asking you a few questions in this
case. I represent Michael Chertoff, the secretary
of the Department of Homeland Security.

Would you please state your name and
address.

A My name is Yemisi Akinyemi, I live
at 36 Hennessey Place, Irvington, New Jersey,
07111.

MR. OKOLI: Just one point
before we proceed. I want to place on
record that we are withdrawing the
second count of the complaint, without
prejudice to filing in appropriate
place. That's the breach of contract

1 Akinyemi

2 claim.

3 MR. CLOPPER: Thank you very
4 much, Mr. Okoli, because that will, I
5 think, shorten some things, and I
6 wanted to ask you about that.

7 BY MR. CLOPPER:

8 Q I just want to start with a few
9 basics that we go through in all of these cases.
10 You understand that you are under oath and that
11 you have sworn to tell the truth?

12 A Yes.

13 Q And if at any time you don't hear my
14 question, you'll let me know?

15 A Okay, I will.

16 Q I would ask before you answer any of
17 my questions that you wait until I've finished the
18 answer or finish the question, and that when you
19 give an answer you give a verbal answer.

20 A Okay.

21 Q Also, if at any time you'd like to
22 take a break, please let me know. I'd be happy to
23 take a break whenever you'd like. The only thing
24 I would ask is that we not take a break while a
25 question is pending. So we can answer the

1 Akinyemi

2 question and then we can take a break.

3 Also, along similar lines, it's
4 improper to confer with your lawyer while a
5 question is pending. Do you understand that?

6 A I do.

7 Q Okay. And are you represented by
8 counsel here today?

9 A Yes, I am.

10 Q And who is that?

11 A K. C. Okoli.

12 Q Mr. Okoli may from time to time
13 object to my questions. He's supposed to do that.
14 However, unless he specifically tells you not to
15 answer my question, you should go ahead and
16 answer. Do you understand that?

17 A I do understand.

18 Q Great. When all of this is done, I
19 will send Mr. Okoli a copy of the transcript and I
20 will ask that you read it, sign it and send it
21 back to me. Is that okay?

22 A That's okay by me.

23 Q Okay, great.

24 Have you taken any medication or any
25 other drug today that might interfere with your

1 Akinyemi

2 ability to understand or respond to my questions?

3 A I have not.

4 Q Okay. Is there any other reason why
5 you feel you can't testify truthfully today?

6 A There's no reason.

7 Q Okay. You allege in your complaint
8 that you were discriminated against because of
9 your race, your color, and your national origin.
10 Have I stated those three bases correctly?

11 A Yes.

12 Q Okay. During questioning I'll refer
13 to the alleged discrimination, and I may refer to
14 it as discrimination based on race, color and
15 national origin or I may refer to it as race or
16 color or national origin. Unless I say otherwise,
17 when I refer to race, color or national origin I
18 mean all three. Can we agree to that?

19 A Yes.

20 Q Great. So I just want to start with
21 a little bit of background and then to your
22 current employment. Where do you currently work?

23 A Currently I work with Icom,
24 Incorporated, it's at 1011 Bloomfield Avenue.

25 Q And what does Icom do?

1 Akinyemi

2 A It's an advertising agency, works
3 with pharmaceutical companies. They do
4 literatures about drugs.

5 Q And what do you do for them?

6 A I'm an administrative assistant
7 there.

8 Q And so what are your duties as
9 administrative assistant?

10 A As an administrative assistant I do
11 writing a lot of literatures, it's correspondence
12 between doctors and med pharmaceutical companies,
13 I create a different presentations that's going to
14 be used for any market or to be marketed.

15 Q How long have you worked there?

16 A About four months. I actually just
17 started the first week in May this year.

18 Q What's your current salary?

19 A I make \$18 an hour.

20 Q And is there a provision for a
21 bonus?

22 A No. And if I may add, it's a
23 part-time job. They only have a part-time
24 position.

25 Q How many hours per week are you

1 Akinyemi

2 currently working?

3 A Twenty hours.

4 Q Is it, do you think it will stay at
5 20 hours or do you expect it will increase or
6 decrease or do you know?

7 A It will stay 20. In fact, yesterday
8 we discussed it, because I actually requested for
9 a raise and they said no, they cannot going
10 higher, they cannot give more hours. That's what
11 it got to stay, because that's what their job
12 capacity can accommodate for now.

13 Q Who is your supervisor there?

14 A Patrick Guiliano, is the president
15 of the company.

16 Q Okay, great. And how old are you,
17 ma'am?

18 A Thirty eight.

19 Q And when were you born?

20 A 6/16/69.

21 Q And where were you born?

22 A I was born in Nigeria.

23 Q Where in Nigeria?

24 A Ebada.

25 Q And you stated now you live in,

1 Akinyemi

2 could you just tell me where it was?

3 A I live in the town of Irvington at
4 36 Hennessey Place, Irvington, New Jersey.

5 Q And when did you move from Nigeria
6 to the United States?

7 A About '94.

8 Q Are you an American citizen?

9 A Yes, I am.

10 Q And when were you naturalized as an
11 American citizen?

12 A About 2001.

13 Q And where you live now, how long
14 have you lived there?

15 A I've lived there since I closed on
16 the house the 30th of April, 2003. I moved in
17 like the first week of May, 2003.

18 Q When you say you closed on the
19 house, I take it to mean that you own the house?

20 A Yes, I do.

21 Q And where did you live previous to
22 that?

23 A Prior to that I lived on 10 Marshal
24 Street, Apartment 5-C, the same, Irvington and I
25 lived prior to that for ten years in the same

1 Akinyemi

2 building.

3 Q And where did you live before that?

4 A Before that I came to the United
5 States, I stayed with my sister for three months,
6 then we got our own apartment.

7 Q Have you ever used any other name?

8 A Before getting married?

9 Q Um-hum.

10 A Williams, before getting married,
11 but after I got married, my name was Akinyemi,
12 Akinyemi to make it easier.

13 Q What was your name when you were
14 born?

15 A Yemisi Williams.

16 Q And then when you came to the United
17 States it was Yemisi Williams?

18 A No, I came here married.

19 Q I should ask you that then. When
20 did you get married?

21 A I got married '94.

22 Q And when you got married your name
23 changed to?

24 A Yemisi, Seweje, S-E-W-E-J-E, dash
25 Akinyemi, hyphenated.

1 Akinyemi

2 Q And then when you went to work for
3 Customs and Border Protection you just started
4 using professionally?

5 A Yes, because while I was with my
6 first employer was FedEx, while I was there I
7 didn't have to need no name tag so everybody
8 called me Yemisi, with customs it was so -- we
9 have to make life easier here for everybody of
10 us --

11 Q I'm prone to jumping in and cutting
12 people off as well, so I'm going to do my best as
13 well. I would probably need to be reminded.

14 So what is your Social Security
15 number?

16 A 099-84-1019.

17 Q And you said before that you were
18 married. What's your husband's name?

19 A Olu Bukola Akentunde, last name,
20 Seweje-Akinyemi.

21 Q Is it okay if I refer to your
22 husband as Mr. Akinyemi?

23 A Excellent.

24 Q What is your husband's profession?

25 A Limo driver.

1 Akinyemi

2 the second weekend job that you sometimes did was
3 baggage?

4 A Yes, depending on the assignment
5 that I'm given.

6 Q And what kind of work was that?

7 A Inspecting passengers' baggage,
8 luggages that they bring in, for contraband, for
9 what's not allowed. That's what our job, and if I
10 could also put that, I also work at the warehouse.

11 Q The warehouse?

12 A Yes, where you examine imports that
13 are coming in, you do examinations.

14 Q And where is the warehouse?

15 A We have about five warehouses, we
16 had all around Newark and depending on where
17 you're assigned to work, we had an east coast
18 warehouse, we had the select warehouse, and
19 there's warehouses there. Their consigned
20 warehouse, have individual packages are
21 consolidated to a large package and sent to a
22 broker. I go to the warehouses to examine them
23 for any reason based on the orders that are given.

24 Q And each of these areas I believe
25 you said first the primary area, the baggage area

1 Akinyemi

2 and then the warehouse, are these all secured
3 areas?

4 A Yes, because they're internal areas.

5 Q And so, when I say secured areas,
6 these are areas that are not accessible to the
7 members of the general public?

8 A When you're coming in, because
9 they're just getting off the flight.

10 Q So, would it be fair to say the only
11 members of the general public that are allowed to
12 be there are members who are coming off flights?
13 In other words, members of the general public who
14 have no official business to be there are not
15 allowed to be in that secured area?

16 A I will not be able to know, because
17 I've seen so many people there. I don't question
18 them why are they there.

19 Q Okay. Well, let's talk a bit about
20 December 5th, 2005. What happened on the morning
21 of December 5th, 2005?

22 A On the morning of December 5th, 2005
23 we had a call from Nigeria that my father-in-law
24 has been sick, that he passed, and my husband --
25 so, I went to work, because I had no one, my

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responsibility was import for the day, was three officers detailed there, and we have different post manned which has to be manned at all costs. So I went in to work as usual and went to the office of, spoke to my husband first, consoled him, he started making arrangements to go to his father -- I mean to his parents' home. So I went to the office and went to the supervisor's office which was Mitchell Landau, to import specialist supervisor, to explain to him the bereavement of my family. I explained to him what happened that morning, I was the officer that was assigned to stay late, because the office close at 4:30 and somebody has to be there, so I explained this is what happened, I'm not going to be able to stay late. I explained the situation, nobody's going to do this, it's a great thing in the family, but at the same time what's happening, he needs me now. He said okay, what do you think I could do? What would help?

I said I have to leave at this time I need time off, then I'll know, because of my husband is leaving. I'll not be able to wait to 4:30 to close, because there's not going to be

1 Akinyemi

2 anyone to take care of the kids at home. He said
3 okay. He gave me the excuse for an hour to leave
4 early, because I said I was going to join my
5 husband at the airport. Meanwhile, all through
6 work I was communicating with him, just to console
7 him in such a difficult state.

8 Q Let me back up and just ask a couple
9 follow-up questions. Who did you receive the
10 phone call from in the morning informing you of
11 your father-in-law's death?

12 A My brother-in-law from Nigeria.

13 Q From Nigeria?

14 A Yes.

15 Q When did the call come in?

16 A Early in the morning, about
17 5:00 a.m. or six.

18 Q Between the time of when you heard
19 the news of the death in the family and let's say
20 going to the airport, other than speaking with
21 your husband and other than speaking with Mitchell
22 Landau, did you speak with anybody else about the
23 death in the family?

24 A Oh, yeah, a lot of people, the
25 calls, once he told me, I called my sister, called

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Akinyemi

his brother, calls were coming in back and forth,
a lot of friends we have here. Yes, we spoke to
them, then what happened and everybody trooped in,
a lot of them mostly joined him to sort of
encourage him and comfort him.

Q And what time did you arrive at work
that day?

A 8:30, like the day before, 8:30.

Q Is that your normal time to start?

A That's my normal time to start.

Q At what point did you go speak with
Mitchell Landau?

A If I can be accurate, a little after
ten when I saw him. Yes, once I saw him, I was
trying to catch him in his office, because he has
two offices, so I was trying to track him down to
the downstairs office, a little after ten.

Q Could you tell me again after you
informed him of your father-in-law's death what
the conversation, how the conversation went?

A He said oh, I'm sorry, I sympathize
with you. What can we do for you? So I said at
this time, because I knew I was the officer
responsible to stay till 4:30, I said I will not

1 Akinyemi

2 be able to stay till 4:30 from that day because my
3 husband was not going to be home because that's
4 what's happened, he said he'll work it out to find
5 somebody to cover the bases while I'm not there.

6 And I requested to leave early to
7 join my husband at the airport. Then he excused
8 me.

9 Q I'm sorry if you had already stated
10 this, but at what point did your husband decide to
11 fly to Nigeria?

12 A He had already had the plan, you
13 know, that he was going to travel, but that
14 morning the father passed, all the plans changed.

15 Q He'd already had the plan, what do
16 you mean by that?

17 A Meaning that he had already had a
18 ticket to travel to Nigeria because the father was
19 ill, he had, they said it was lung cancer or
20 something which was not diagnosed until the last
21 minute, already had a reservation to travel, but
22 open date. The whole plan just changed when they
23 said the man gave up.

24 Q I see. How long had he had a plan
25 to fly to Nigeria?

1 Akinyemi

2 A Maybe, I can't say, about maybe
3 three weeks or two.

4 Q And his reasons for having planned
5 to go to Nigeria were to see his father?

6 A Yes.

7 Q Was there any other reason?

8 A No.

9 Q And so, I believe you said you asked
10 Mr. Landau for permission to leave a bit early to
11 go with your husband to the airport?

12 A Yes.

13 Q And what did Mr. Landau say?

14 A He granted the permission. He
15 excused me for an hour to leave early.

16 Q Was there any other discussions with
17 Mr. Landau related to going to the airport other
18 than just a simple permission? Was there anything
19 else in the conversation about --

20 A Not with Mr. Landau, no. If I may
21 say Mr. Landau isn't an officer so I couldn't --
22 he's a supervisory import specialist that
23 supervises us because I have no supervisor on the
24 site, so anything I have to do that requires
25 supervision I'm responsible to bring it to his

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knowledge instead of going to Elizabeth, where my superiors are, which is Dominick Calise, Lorraine Spina, and Cathy Hawkins. So I only asked him for permission to leave.

Q You said something about Elizabeth. Elizabeth is?

A Where my supervisors are.

Q And the names of your supervisors are?

A Directly or indirectly I report to three supervisors based on who is covering the units, Catherine Hawkins, Lorraine Spina, and Dominick Calise.

Q So, after you spoke with Mr. Landau what did you do after that?

A I went back to work and I told the others two there what happened. I just went back to work, they were communicating with him. Did you do this, did you, trying to remember what's needs to be done, and what kinds of things needed to be done.

They're personal family things, did you do this, did you take this, did you call this person, did you inform this person, you know.

1 Akinyemi

2 Because we had -- so many things had to be done, I
3 was calling back and forth.

4 Q And did you speak with any of your
5 other colleagues that day?

6 A Yes.

7 Q Who did you speak with?

8 A I spoke to Brad Slutsky, Brendan
9 McPhail, and if I can remember, James Kennedy,
10 because I told them I'm leaving from here to the
11 airport to join my husband to see him off.

12 Q Let's go through those a bit. I
13 think the first one you said was Brad Slutsky.

14 And what was your conversation with
15 Mr. Slutsky?

16 A The conversation was can I go to the
17 airport, like -- said going to be a problem
18 because when I work in Raymond Boulevard there's
19 no provision for parking. As an officer it was
20 part of the conditions of going to work there,
21 because nobody wanted to work there because there
22 was no -- it is a small place. It's in the heart
23 of downtown Newark. So I was to take the public
24 transportation. They had several officers that
25 was detailed there before me that said they

Akinyemi

1 couldn't take it. They left. But I said don't
2 worry, I'll take it as long as the job gets done.
3 So there's no parking. I go with public
4 transportation to work every day with my uniform
5 on. The only thing is because I take a bus I
6 don't expose my weapon, I just have a jacket
7 depending on where the weather is, so -- and I
8 don't have an off duty clothes or nothing, I go
9 the same way, I come back the same way, no off
10 duty clothes because sometime from the Raymond
11 Boulevard you might be detailed, 4:30 it's
12 mandatory time, you have to report at this house,
13 we want this job done. I'm going to the airport
14 to see my husband, then what happened, said okay,
15 that shouldn't be a problem.
16

17 Q Was there any specific discussion
18 with Mr. Slutsky about using your credentials to
19 bypass security at the airport?

20 A I did not mention using my
21 credentials and neither did I bypass security.
22 When I'm saying bypassing security, it's going
23 through security without being identified. You
24 understand, I did not bypass security. I went
25 through security but not bypass. And neither did

1 Akinyemi

2 I go through security with my husband. He went as
3 a passenger. I just went because I'm in that
4 environment and that is the only way I could come
5 to that environment.

6 Q Well, I just want to ask you a bit
7 about your conversations with Mr. Slutsky and
8 Mr. McPhail and Mr. Kennedy but it may be helpful
9 to jump forward a bit to talk about what happened
10 when you and your husband went through the
11 security area at the airport. So why don't we do
12 that. We'll have to come back a little bit to the
13 events that led up to it, but it might be a little
14 easier for both of us.

15 When you went through security with
16 your husband, you accompanied your husband from
17 the public main terminal of the airport to the
18 gate where his plane left, is that correct?

19 A I did not accompany my husband. My
20 husband went through the passenger, we went to two
21 different places. He went through the passenger
22 line because he had the carry on luggage, he had
23 everything, he went through. I went on the side,
24 where people who work in the airport, where they
25 go through. It's not through -- so my husband, I

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Akinyemi

did not -- I did not company him through that. He went through as a passenger, went through all his regular screening that needs to be done.

Q So your husband went through as a regular passenger and you said you went by the side?

A Yes.

Q And is this -- do you literally mean, is there a lane that goes around the security area?

A Yes.

Q And by the security area I mean where they do the metal detector?

A Yes.

Q And where they do the x-ray machines?

A Yes.

Q And so you went around that in a lane that was designated for people that work at the airport?

A It's designated for everybody.

Q Okay, well, what do you mean by designated for everybody?

A Because everybody pass through the

1 Akinyemi

2 place.

3 Q But this side lane that you went
4 through, who gets to go through there?

5 A Like I said, everybody, only the
6 passengers, the people that passengers, the people
7 that get through the side lane is people that have
8 the Port Authority ID.

9 Q You need a Port Authority ID to get
10 through the side lane?

11 A Yes.

12 Q When you say everybody, you don't
13 mean non-ticketed passengers, meaning the general
14 public, the general public doesn't get to go
15 through that side lane?

16 A The general public does, even if
17 they are not ticketed passenger, if they have the
18 Port Authority ID.

19 Q The general public did that if they
20 don't have a Port Authority, doesn't --

21 A They might. There are jobs in
22 general public that don't have Port Authority IDs
23 that work for government agencies that come
24 through that lane even when I was working, yes.

25 Q And these people you've seen that

1 Akinyemi

2 have gone through without Port Authority IDs were
3 there on some official business?

4 A I wouldn't know, I don't interrogate
5 them.

6 Q Is there anybody monitoring that
7 side lane?

8 A There's always somebody there.

9 Q And who is there?

10 A Depends on who's there, depends,
11 sometimes, I think they have security.

12 Q And can the general member of the
13 public without any ID, without any badge, without
14 any uniform, simply walk through without being
15 challenged?

16 A I would think so.

17 MR. OKOLI: Note my objection.

18 Go ahead and answer.

19 Q You would think so?

20 A Yes.

21 Q Why would you think so?

22 A Because it's an open place for
23 anybody to walk through.

24 Q Have you ever seen anybody simply
25 just walk through?

1 Akinyemi

2 MR. OKOLI: Note my objection,
3 asked and answered.

4 But go ahead. When he asks
5 the question, wait a little bit before
6 you start to respond.

7 My objection is asked and
8 answered. But go ahead and answer.

9 Q When you walked through was there
10 anybody there checking badges or uniforms or Port
11 Authority IDs?

12 A I wouldn't recollect if there was
13 somebody -- like I say, it's an open place. It's
14 not a closed place. I'm sure you've traveled a
15 couple of times, and it's an open place. You
16 don't know who's who, everybody's just standing,
17 you don't know what they're doing.

18 Q Did you stop and speak to anyone as
19 you were walking through?

20 A Nobody stopped me, so I didn't stop
21 to speak to anyone.

22 Q Did you show your badge or ID to
23 anyone?

24 A No.

25 Q Was your badge visible?

1 Akinyemi

2 A Yes, my badge is always visible,
3 once I'm in uniform, and I'm coming from work, I
4 have it always visible, both badges for all the
5 locations that I work. I have based on where I'm
6 working all the badges clipped together, I just
7 flip it.

8 Q So you had -- I should go back and
9 be more specific. You have different badges for
10 different places?

11 A Yes.

12 Q And then do you have like just a
13 general badge, you know, like I'm thinking of that
14 a police officer might have that just identifies
15 them as a police officer that has like a shield on
16 it or something like that, do you have that sort
17 of badge?

18 A Yeah, that's the badge on the
19 uniform.

20 Q That's the badge on the uniform,
21 okay. And in addition to that, you have other
22 forms of ID like the authority Port Authority ID
23 or the AOA card, right?

24 A Yes.

25 Q And when you walk through the side

1 Akinyemi

2 lane did you have both your badge and your Port
3 Authority ID badge visible?

4 A Yeah.

5 Q And you were wearing your uniform?

6 A Yes.

7 Q Were you carrying a weapon?

8 A Yes.

9 Q Was your weapon visible?

10 A Yes.

11 Q And I apologize if I've asked this,
12 but you said you didn't speak to anyone as you
13 walked through?

14 A Um-hum.

15 MR. OKOLI: You have to
16 verbalize your answer.

17 A You said what?

18 Q You did not speak to anyone as you
19 walked through the side lane?

20 A I didn't say nothing. I just walked
21 by.

22 Q Did you make eye contact with anyone
23 or nod at anyone?

24 A I wouldn't recollect all these
25 details.

1 Akinyemi

2 Q I understand.

3 A Because it's a casual environment,
4 it's just like when I leave the floor and I go on
5 a lunch break and I go through it the same way, I
6 walk through a primary upstairs, I'm off duty, I
7 am going to be dressed the same way I dressed that
8 day and I'm going to the restaurant to have lunch,
9 I pass the same place and I'm also off duty, so
10 it's not like it's a structured thing where I have
11 to talk to somebody or not to somebody.

12 Q Sure.

13 A Um-hum. So just what I want to try
14 to make you understand, it's the same process I go
15 through if I'm off duty on lunch break.

16 Q Why did you think you were entitled
17 to go through that side lane?

18 A Because I've always gone there off
19 duty when I'm lunch break, I've seen many officers
20 gone there. To my knowledge, and everybody, like
21 I say everybody goes through there. And since I
22 took permission from the office that I said I'm
23 coming from there, I wasn't sneaking to be there.
24 So that was why. I was just going around because
25 they know where I am and they know what I have

Akinyemi

come to do. It's not that I'm escorting him in to board the flight or I'm escorting him outside where general passengers go. So that was why I just walked by.

Q Sure, but would it be fair to say that you were -- you thought you were entitled to go through that side lane because you were a CBP officer?

MR. OKOLI: Note my objection, she just said she'd been through before, she'd just testified, on lunch breaks, off duty, CBP officer or not CBP officer.

But go ahead and answer.

BY MR. CLOPPER:

Q Why did you think you were entitled to go through the side lane?

A If I could reiterate what I'd said earlier, everybody goes through there, this is not a conserve place not a -- once you get off, you check in.

Q What do you mean you get off and check in?

A I'm talking as a passenger. As you

1 Akinyemi

2 not be a concern, between three and four.

3 Q Why had you been concerned about
4 going to the airport in your uniform while off
5 duty?

6 A Because I'm not assigned there. It
7 is because I didn't work there that day. If I had
8 worked there, it wouldn't be an issue for me.

9 Q Were you concerned that it would
10 violate a rule or regulation or some sort of
11 standard of practice of the office?

12 A I just, well --

13 MR. OKOLI: Note my objection.

14 Go ahead and answer.

15 We can do this ten times,
16 you're just asking the same question
17 over and over. Answer is not going to
18 change.

19 A It's the same thing I'm telling you.

20 Q I'm simply trying to understand what
21 the concern was.

22 A I'm saying it in plain English.

23 MR. OKOLI: She wasn't
24 assigned there that day and it was
25 during work time.

1 Akinyemi

2 A So my concern was seeing me, at the
3 time I'm supposed to be in a location of
4 assignment, that was my concern.

5 Q What time did you leave work?

6 A About three.

7 Q And where did you go upon leaving
8 work?

9 A Just took the train and I went on to
10 the airport.

11 Q No stops, straight to the airport?

12 A No stop.

13 Q Where did you meet your husband?

14 A At the check-in counter.

15 Q And did your husband check in at the
16 ticket counter?

17 A Yes.

18 Q What airline was it?

19 A Air France.

20 Q And did your husband have any bags
21 with him?

22 A Yes.

23 Q And did he check in the bags at the
24 ticket counter?

25 A Yes.

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Akinyemi

went through the security with his bag. And I went on the side and I went in, so he checked and he came in and we continued the conversation at the gate.

Q So, but again, just to back up, you walked to the general area of the Transportation Security Administration area, you walked together, you separated at that point, is that correct?

A We talked, he went through the security area and I went on the side. Once he was done with his security screening we started talking back at the gate area.

Q So I know we've be through a bunch of this, I'm going to keep it short. But your husband --

A That's okay.

Q Your husband went through as a normal passenger?

A Yes.

Q Did your husband take his own bags through, whatever bags he had with him at that time, through the security check point?

A I would think so, but I don't think
he had a bag, because he checked all his bag he

1 Akinyemi

2 had. He had too much on his mind to hold one bag,
3 I think the last bag he had is what he came to
4 tell me, they didn't want to hold it, excess bag,
5 so he paid it and let everything go.

6 Q I'm sorry, explain that.

7 A He had one extra bag, you're
8 entitled to two luggages. He had one extra. And
9 he didn't want to pay it through, so he paid for
10 it.

11 Q Paid for it, at the ticket counter
12 you can check an extra bag by paying for it?

13 A Um-hum.

14 Q Did you carry anything on behalf of
15 your husband through the side lane?

16 A No. No.

17 Q Did you give anything to your
18 husband to take on the plane with him that did not
19 go with him through the security check point?

20 A No.

21 Q Were you carrying your own personal
22 belongings --

23 A I wasn't holding nothing, because I
24 came by public transportation, so I couldn't hold
25 nothing.

1 Akinyemi

2 Q I think you said after you both got
3 through the security check point through different
4 avenues --

5 MR. OKOLI: Note my objection,
6 you're mischaracterizing the witness'
7 testimony. She didn't say both of
8 them got through security check point.
9 The husband went through the security
10 screening, she went in through the
11 same place we were discussing and they
12 met at the gate area and continued
13 their conversation.

14 Q I'm trying to find out where it was
15 that you re-met your husband after you briefly
16 separated.

17 A After he went through security
18 screening.

19 Q Right after?

20 A Yes, at the gate area.

21 Q And then, what happened at the gate
22 area?

23 A At the gate area, they were boarding
24 already. The plane was already boarding, so we
25 just had the final discussions and I just went

Akinyemi

Notice of Action, they gave to me on that day. He asked me only one question, if I'm right, then he asked that question then I answered it. He put it into writing that that was what I said, I said yes.

Q I apologize for re-asking, because generally speaking, it's the same cast of characters because, but who was at the December 19th meeting?

A The same thing, it was Officer Fox, Officer Calise, Officer Martella and myself. Officer Spino was only on the first date. Subsequent I met with them on four times, the fourth time was when they gave me the Kalkinos, all my Notice of Action, the rights and everything, and Officer Fox has always been there as the DCO. He was the one actually questioning me.

Q And after the December 19th meeting what was the next thing that happened relevant to what happened on December 15?

A Nothing, after December 19th meeting after that I went back to work. The December 20th what happened I think one of my kids

Akinyemi

1 something happened that they couldn't to go school
2 so I had to be home with them and their father was
3 not home, nobody to take care, so I called them
4 that I won't be able to come, because, I was just
5 home, on December 21st -- December 20th I think I
6 went to work, December 21st, yes. Then I was
7 home. Nothing happened after that I gave them,
8 that's it. The next day my daughter was sick, I'm
9 sorry, sure, yes, then she went to school, I think
10 they called me to pick her up early, then the 21st
11 I had to stay home with her, because she had open
12 heart surgery, I was home. Then I just heard the
13 doorbell, then three officers came in, three
14 officers came in, with the DCO and they said they
15 worked for CBP, they introduced themselves that he
16 they want to serve me a letter that I didn't want
17 to get. They want to get all my Customs property
18 that is with me. I said thank you, I took the
19 letter. I signed, turned whatever was with me
20 with them, then I read the letter.

22 Q Do you remember who it was that came
23 to your house?

24 A Yes, two, I know very well by faces,
25 because I worked with them at the airport, but I

1 Akinyemi

2 can't recollect their name now, but I can --

3 Q Okay. And when you read the letter
4 what did it say?

5 A It said that I was terminated for
6 misuse of position.

7 Q And I'm sorry, when the officers
8 were there in your house did they tell you why
9 they were there, other than what you said, to
10 gather belongings?

11 Well, what did they tell you when
12 they were in your house?

13 A I just said they told me they were
14 there from CBP to serve me this letter and to get
15 the CBP belongings that is with me. They asked
16 for my weapon. I unloaded it. I gave it to them.
17 My badge, the I.D., they asked for the office keys
18 and I turned it in to them and --

19 Q What did you do after you read the
20 letter?

21 A I was just, well, thank God, because
22 I'm here today, I was shocked to my bones. I was
23 shocked. I never, it was the greatest shock of my
24 life, but you know, I was, I didn't know I was --
25 in fact, I couldn't get over, but it's almost two

Akinyemi

1 years, I'm getting back to on my feet. Because
2 when I read the letter I'm like, what did I do?
3 Did I steal? Did I kill? What my crime was?
4 Because I didn't call out that day, maybe I should
5 call out, because I took the job a very important
6 part of me, if I didn't go all this wouldn't have
7 happened -- there was too much going through my, I
8 couldn't really put things together, because I was
9 trying to pinpoint what I did wrong. That was my
10 first thing, trying to figure out what was wrong,
11 what I did wrong.
12

13 Q So, let's talk about the allegations
14 of discrimination. Who do you think discriminated
15 against you?

16 A Everybody, from the first day there
17 was discrimination, because when I got to the gate
18 as courtesy if I was not a Nigerian, if I was not
19 a black person, if I tell you as an officer that
20 this is my husband there should be no issue of
21 integrity. Officer Hector, DCO Hector said at
22 first on his statement I thought it was an
23 integrity issue. Why would you think integrity?
24 Because I'm a Nigerian, because I'm black. If
25 anybody that is not of my race tell you this is my

Amendment to the Deposition

Of

September 12, 2007

By

Yemisi Akinyemi

Pg 9 Line24

Q. Where in Nigeria

A. Ibadan

Pg 1 line 19

Q. What is your husband's name

A. Olubukola Akintunde Seweje-Akinyemi

Pg 13 line8

Q. And their names?

A. The first is Olatunbosun, his last name is Ugbogu. He was born in 1986

Pg 15 line 3

Q. And when did you graduate

A. I graduated in 1985

Pg 17 line 18

A. After graduating fro Essex County College I continued my employment with FedEx. Seeing that CBP had a job opening that the educational requirements and work experience is commensurate with the degree I obtained, I said yes, I could fit in the environment and I switched over from FedEx to CBP.

Pg 18 line 7

From there I moved to what is a position called International document Agent which worked directly with then U. S Customs. The position acts as a liaison between FedEx International clients and Customs to collate all documents required for shipments coming in or going out of the U.S.

Pg 19 line 7

For better opportunity, because it was a government job. I knew there would be more or better job security and potential for growth since I already possess the skills and knowledge required for the job. I will also be able to put those skills to use there.

Pg 37 line 25

My responsibility was to attend to clients, the general public that comes in for import clearance. I do the inspection part of import clearance on behalf of the import specialist.

Pg44 line 17-24

I explained the situation, the great loss in my family and what I will want done. I asked to leave the office one hour early because my husband is bereaved.

Pg 47 line22

on that date

Pg 52 line 25

I did not go through security with my husband; I did not accompany him through the security.

Pg 59 line 5

I went through the same way I have walked through whenever I worked the primary or secondary at the airport and off duty on break. I was dressed the same way I dress if I was going to the restaurant to have lunch. I passed through the same place I do when I'm off duty for lunch. It is not like it is a structured environment where I have to talk to somebody.

Line 20

To my knowledge and to everybody's, like I said, every Officer off duty goes through there. And since I took permission before leaving the office, indicating that I was going there, I knew I was not sneaking there.

Pg 60 line 21

If I could reiterate what I'd said earlier, everybody goes through there, it is not a restricted area for any CBP officer off duty or airport personnel, it is a waiting area where passengers and airport personnel who are not traveling can go, it is not the jetway.

Pg 61 line 14

If I was going to go past the waiting area, then that would have been a concern. The question would be what was I going to do there? That is border nexus, the intention to travel is there.

Pg 64 line 20-22

They said no, it's no problem. My concern was being there because I was not detailed to work there on that day. My concern was not to go pass security.

Pg 71 line 7

He had one extra bag and he did not want to hold any bag with him, so he paid for the excess luggage.

Pg 74 line 10

The gate area is the same as the waiting area or lounge that passengers wait before they board the flight. The gate is before the jetway. The ticket agent stands between the boarding gate and the jetway to retrieve passengers boarding pass. From the point the boarding pass is detached, it is a restricted area because that is the point that CBP Officers perform their duties. At that point the intention to travel is there. Any other area before the boarding pass is detached is considered a secure public area. That is why I am able to go there off duty when on lunch break to eat. The only place I cannot go past is where the boarding pass is detached, it is known as "border nexus". At that point the person is traveling and that is the location CBP Officers have authority to question, examine or inspect anyone that crosses. The inspection takes place in the jetway, where we have the slanting stairs, it is like a hall way.

Pg 76 line 1

We were just wrapping things up on the phone while I walked back. I communicated with him for a while. When we got to the gate area, the passengers where lined up as the seat assignment was called for boarding.

Pg 81 line 10

When I got there, I said here I am. She called me in the office, called Dominic Calise and said they want her to take a statement from me about what happened on December 5th when I went to the airport with my husband.

Pg 85 line 15

She cannot answer any further question until I confer with a union attorney to find out if we are obligated to do this.

Pg 85 line 24

And you've said you've gone there not once, but you've gone there twice and they still have not told you what you did. He asked me what happened and I told him. He said is that it? I said yes.

Pg 86 line 4

If they (Officers at the gate) don't show up and there's no notice you cannot answer any further question, because you don't know what they're trying to do. No! That's not the procedure.

Pg 86 line 17

Officer Fox said I don't know, he said you don't know why you are questioning her? So what do you want to achieve and why do you want to question her if you don't know the purpose? Officer Fox said he was just being told to ask me questions.

Pg 96 line 21

I'm not the first person they will question as an Officer but I was the first person they did not go through all the laid down procedure with. I am the first person that they (supervisors) has to be reminded of what has to be done for. It's because I'm Officer Akinyemi, a Nigerian.

Pg 97 line 6

No, that's Greg Jurzac. He was the one that said the more he researched my husband, the more derogatory information he discovered and he had the "gut feeling" that something was not right. Office Jurzac and Alice Long were the Officers at the gate.

Pg 97 line 11

They bring the money to forfeiture and confinements. It is not that they don't know me from the blues.

Pg 98 line 8

I said from the first day of the incident it was discriminatory, because when Officer Jurzac saw me at the gate he could not comprehend a Nigerian Limo driver married to a CBP Officer. It is discriminatory because he is a black man Alien kissing a black Officer. If it were a white woman kissing a white man, it wouldn't be a new thing to them. A Nigerian can't kiss. That was why Officer Jurzac said he did not believe he was my husband because of the situation he witnessed. If it was a caucasian Peter or Paul that is not a Nigerian doing the same thing, they will believe her introduction.

Pg 99 line 7

His statement is so discriminatory because in the statement that he gave, he said that after he had seen us, the action triggered a suspicion that made him to further to dig into his immigration records. Digging into the immigration records of the spouse of a colleague that told you immediately she saw you that the person she is with is her husband is plain and obvious discrimination.

Pg 99 line16

What's that got to do with them being together? As a season non-biased Officer, if there was any reason for suspicion at that point, Officer Jurzac and Long had the authority to as a CBP representative to go as far to strip him from his head to his toes without anybody questioning it. Why did they not do it if there was a probable cause? I had left the gate, why didn't they exercise their authority if there was a question with him not making eye contact?

Pg 100 line 7

And the second incident was the questioning. I sat at the questioning without any regard for my person. Not made to know what I was questioned for, this is because I am a Nigerian. . They have been senior Officers for years none of them got there yesterday.

Pg 103 line 6

If I were not a Nigerian there would be no reason to question my integrity.

Pg 103 line 12

But his report indicated that he went over to question his status because he knew there was more to him and he even called IA and SA.

Pg 103 line 15

What happened? Whatever happened had nothing to do with the incident of December 5th. I think it was in August of 2004. I was home on that afternoon when just I saw two postal inspectors at my house.

Pg 103 line 24

I didn't know them and they did not know me. As the owner of the house, I said may I please know you?

Pg 104 line 11

I never had contact with anybody in France, they said they came there to find out if he knew anybody and he said no.

Pg 106 line 20

The next day.

Pg 109 line 14

They choose the cases they are interested in.

Pg 112 line 1

She said Ms. Haage said I cannot wear skirt to work. They know I'm a Christian and she said if I want to continue wearing it for religious reasons I should put it in writing. I know this woman is up to something. Eventually they will restrict me from the kind of duties I can perform. And as someone on probation, I couldn't pick assignments. And she (Ms Haage) will say if you can't wear this type of uniform you can't work here.

Pg 116 line 23

Everything I say is not trusted. They will look at me and say she's a Nigeria. She is one of them. That was why they did not trust my introduction that he was my husband.

Pg 118 line

It is more implied than spoken. Things are better spoken in action than in words. They will not say it to me because I will not give them reason to.

Pg 118 line 6

There are evidences that she was not treated the same way. She had a Union representative and she got all the documents that an Officer is entitled to from the beginning of her incident. Infact, the time it took to look into her case as a probationary Officer was enormous, she got all that the rights and privilege because she is Caucasian.

Pg 118 line 18

Which obviously wouldn't have qualified them for the job.

Pg 119 Line 20

It's not what was ever effected at Newark Liberty International Airport. An Officer that's on break is off duty and they go to the area. Once you are off duty, everybody goes over to the gate area. So if they had never reprimanded an Officer for such incident before, they did it to me because I am a Nigeria.

Pg 124 line 24---Pg 125 line 1

The Officers I alleged know not to make statements to me. They don't work on the floor and wouldn't be able to do such but the Officers that were questioned, indicated that they target Nigerians on flights.

Pg 125 line 11

If you profile a Nigerian passenger, you are not going to separate the person. You are dealing with a nationality.

Pg 125 line 15

You are going to work with the same intensity based on the amount of knowledge, impression and information given you about them. You will not separate somewhere in your brain or mind that this is an employee, you are dealing with a nationality which happen to be the employees heritage.

Pg 127 line 10

As a Nigerian Officer, I knew where my limits were, and that was the way I operated there. I did not give room to anybody to raise issues concerning me because of my nationality, especially with my knowledge of their perception of Nigerians. So I did everything strictly by what I knew was to be done. Which goes back to the one of my son, I knew not to let them raise the issue of Nigerian laundering money so I brought it to their attention despite his innocence.

Pg 137 line 10

That was not what I said.

Pg 137 line 13

It is in the investigative report, where he alleged that the Officers told him that I knew what I was doing was not right but I had to do it anyway because of the bereavement in the family. The investigator posed his allegation to the Officers and they said that I did not say anything to them.

Pg 137 line 14

I did not say anything else.

Ayer

Before me:

Kenechukwu C. Okoli

KENECHUKWU C. OKOLI
Notary Public, State of New York
No. 02OK6158336
Qualified in Nassau County
Commission Expires Jan. 2, 2011

November 10, 2007